

LAHIVE
&
COCKFIELD

LLP

SEP 23 2001

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MERIDETH C. ARNOLD
* Admitted in NY only.
** Passed the Patent Bar Examination

September 18, 2001

BOX MISSING PARTS
Commissioner for Patents
Washington, D.C. 20231

Re: Divisional Patent Application Serial No. 09 258,600. Filed February 26, 1999
Entitled: *Yeast Cells Engineered to Produce Pheromone System Protein Surrogates, and Uses Therefor*
Inventors: Dana M. Fowlkes, *et al.*
Our Ref. No.: CPI-012CP4DV

Dear Sir:

I enclose herewith for filing in the above-identified application the following:

1. Response to Notice To File Missing Parts of Application (3 pgs. in duplicate);
2. Request for One-Month Extension of Time (1 pg. in duplicate);
3. Copy of the Rule 53(b) Divisional Application Transmittal Letter (3 pgs.);
4. Copy of Divisional Application return postcard date-receipt stamped by Patent Office with serial number of application (1 pg.);
5. Copy of Preliminary Amendment filed February 26, 1999 (10 pgs.);
6. Check stub for check no. 029198 in the amount of \$1,504.00 (1 pg.);
7. Copy of Executed Declaration, Petition and Power of Attorney Document (2 pgs.);
8. Copy of the Notice to File Missing Parts of Nonprovisional Application (1 pg.);
9. Copy of Filing Receipt mailed June 18, 2001 (1 pg.);
10. Request for Correction of Filing Receipt (2 pgs. in duplicate);
11. Copy of Filing Receipt with changes noted thereon (3 pgs.);
12. Executed Associate Power of Attorney (1 pg.);
13. Check in the amount of \$130.00 (surcharge fee) and \$110.00 (extension fee); and
14. An Acknowledgement Postcard.

Please charge any necessary fees to our Deposit Account No. 12-0080. The undersigned requests any extensions of time necessary to respond. A duplicate of this sheet is enclosed.

I hereby certify that this correspondence is deposited with the United States Postal Service as first class mail in an envelope addressed to: BOX MISSING PARTS, Commissioner for Patents, Washington, DC 20231 on:

September 18, 2001

Date

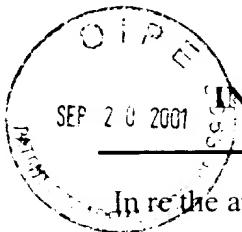
Hathaway Pease, Reg. No. 46,488

Respectfully submitted,

LAHIVE & COCKFIELD, LLP



Hathaway Pease
Reg. No. 46,488
Agent for Applicants



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Fowlkes, D.M. et al.

Serial No.: 09/258,600

Filed: February 26, 1999

For: *YEAST CELLS ENGINEERED TO PRODUCE
PHEROMONE SYSTEM PROTEIN SURROGATES,
AND USES THEREFOR*

Attorney Docket No.: CPI-012CP4DV

Group Art Unit: Not Assigned

Examiner: Not Assigned

Box Missing Parts
Commissioner for Patents
Washington, D.C. 20231

Certificate of First Class Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Box Missing Parts, Washington, D.C. 20231 on the date set forth below.

September 18, 2001

Date of Signature and of Mail Deposit

By: 

Hathaway Pease
Reg. No. 46,488
Agent for Applicants

**RESPONSE TO NOTICE TO FILE MISSING PARTS
OF NONPROVISIONAL APPLICATION**

Sir:

This document is filed in response to the Notice to File Missing Parts of Nonprovisional Application mailed June 18, 2001. A Request for a One-Month Extension of Time and the requisite extension fee based on large entity status are filed concurrently herewith.

The instant application is a divisional application, filed on February 26, 1999 pursuant to 37 C.F.R. §1.53(b), of pending prior application serial number 08/461,598 filed on June 5, 1995 ("the parent application").

Enclosed herewith are copies of: the Rule 53(b) Divisional Application Transmittal Letter; divisional application return postcard date-receipt stamped by the Patent Office with the serial number of the application; a Preliminary Amendment filed on even date with the instant application; and the stub for check no.029198 in the amount of \$1504.00 that was filed on even date with the instant application to cover the application and extra claims fee.

Applicants respectfully invite the Examiner's attention to Box 6 on page 2 of the transmittal letter, which directs the Patent Office to cancel claims 2-42 of the original patent application, so that only claim 1 was left remaining. Applicants also respectfully invite the Examiner's attention to Box 7 on page 2 of the transmittal letter, which indicates that the enclosed copy of the aforementioned Preliminary Amendment was filed on even date with the instant application. A review of the Preliminary Amendment makes it clear that claim 1 was then cancelled and claims 43-57 were added. Accordingly, 57 claims for the instant divisional application were filed and are currently pending.

An examination of these 57 claims indicates that 4 independent claims and 53 dependent claims were added to the application through the Preliminary Amendment. The calculation of the filing fee totaling \$1504 (large entity) was calculated on this basis, as is documented in Box 3 on page 2 of the transmittal letter. As further indicated in Box 5 on page 2 of the transmittal letter, and on the return postcard, Applicants submitted a check for \$1504.00.

In view of the foregoing, Applicants respectfully disagree with the figure of \$720 for extra claims as set forth in the Notice to File Missing Parts. In fact, Applicants submit that they owe nothing other than the \$130.00 surcharge.

Accordingly, in response to the Notice to File Missing Parts, Applicants submit herewith a copy of the executed Declaration, Petition and Power of Attorney that was submitted in the parent application, a check in the amount of \$130.00 to cover the large entity surcharge, and a copy of the Formalities Letter.

Fowlkes, D.M. *et al.*
Serial No. 09 258,600

- 3 -

Please charge any underpayments or credit any overpayments to our Deposit
Account No. 12-0080. *A duplicate of this sheet is enclosed.*

Respectfully submitted,



Hathaway Pease
Reg. No. 46,488
LAHIVE & COCKFIELD, LLP
28 State Street
Boston, MA 02109
(617) 227-7400

Dated: September 18, 2001



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON D.C. 20591
www.uspto.gov

APPLICATION NUMBER	FILING RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09-258,600	02/26/1999	D M FOWLKES	CPI-012CP4DV

CONFIRMATION NO. 4086

FORMALITIES LETTER



OC00000006191395

Peter C Lauro, Esq
Lahive & Cockfield, LLP
28 State Street
Boston, MA 02109

Date Mailed: 06/18/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- Total additional claim fee(s) for this application is \$720.
 - **\$720** for **77** total claims over 20.
- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 850.**

*A copy of this notice **MUST** be returned with the reply.*

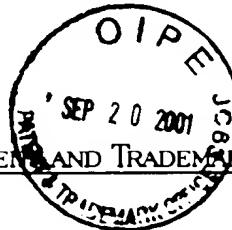
Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/258,600	02/26/1999	1643	1504	CPI-012CP4DV	11	97	4

CONFIRMATION NO. 4086

FILING RECEIPT



OC00000006191394

Peter C Lauro, Esq
Lahive & Cockfield, LLP
28 State Street
Boston, MA 02109

Date Mailed: 06/18/2001

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

D M FOWLKES, Residence Not Provided:

Chapel Hill, NC

Jim Broach, Princeton, NJ

John Manfredi, Ossining, NY

Christine Klein, Ossining, NY

Andrew Murphy, Montclair, NJ

Jeremy Paul, South Nyack, NY

Joshua Trueheart, South Nyack, NY

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted 03/17/1999

Projected Publication Date: N/A

Non-Publication Request: No

Early Publication Request: No

Title

YEAST CELLS ENGINEERED TO PRODUCE PHEROMONE SYSTEM PROTEIN
SURROGATES AND USES THEREFOR

Preliminary Class

JUN 20 2001

435

Data entry by : DIGGS, KEVIN

Team : OIPE

Date: 06/18/2001



**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

PLEASE NOTE the following information about the Filing Receipt:

- The articles such as "a," "an" and "the" are not included as the first words in the title of an application. They are considered to be unnecessary to the understanding of the title.
- The words "new," "improved," "improvements in" or "relating to" are not included as first words in the title of an application because a patent application, by nature, is a new idea or improvement.
- The title may be truncated if it consists of more than 500 characters (letters and spaces combined).
- The docket number allows a maximum of 25 characters.
- If your application was submitted under 37 CFR 1.10, your filing date should be the "date in" found on the Express Mail label. If there is a discrepancy, you should submit a request for a corrected Filing Receipt along with a copy of the Express Mail label showing the "date in."
- The title is recorded in sentence case.

Any corrections that may need to be done to your Filing Receipt should be directed to:

Assistant Commissioner for Patents
Office of Initial Patent Examination
Customer Service Center
Washington, DC 20231

DIVISIONAL CONTINUATION APPLICATION TRANSMITTAL FORM
UNDER RULE 1.53(b) (former Rule 1.60)

SEP 2 3

DOCKET NUMBER	ANTICIPATED CLASSIFICATION OF THIS APPLICATION:		PRIOR APPLICATION SERIAL NUMBER: 08/461,598	PRIOR APPLICATION FILING DATE: JUNE 5, 1995
CPI-012CP4DV	CLASS:	SUBCLASS:	EXAMINER: YUCEL, I.	ART UNIT: 1636

ASSISTANT COMMISSIONER FOR PATENTS
 BOX PATENT APPLICATION
 WASHINGTON, DC 20231

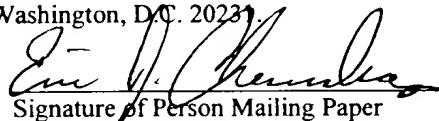
EL094332976US

CERTIFICATION UNDER 37 CFR 1.10

Date of Deposit: February 26, 1999Mailing Label Number: EL 094 332 976 US

I hereby certify that this 37 CFR 1.53(b) request and the documents referred to as attached therein are being deposited with the United States Postal Service on the date indicated above in an envelope as "Express Mail Post Office to Addressee" service under 37 CFR 1.10 and addressed to the Assistant Commissioner for Patents, Box Patent Application, Washington, D.C. 20231.

Eric J. Chesnakas
 Name of Person Mailing Paper


 Signature of Person Mailing Paper

Dear Sir:

This is a request for filing a continuation divisional application under 37 CFR 1.53(b), of pending prior application serial no. 08/461,598 filed on June 5, 1995, of Dana M. Fowlkes et al. entitled YEAST CELLS ENGINEERED TO PRODUCE PHEROMONE SYSTEM PROTEIN SURROGATES, AND USES THEREFOR, patented, which in turn is a continuation-in-part application of serial no. 08/322,137 filed on October 13, 1994, now pending, which is a continuation-in-part of serial no. 08/309,313, filed September 20, 1994, now abandoned, which is a continuation-in-part of serial no. 08/190,328, filed January 31, 1994, now pending, which is a continuation-in-part of serial no. 08/041,431, filed March 31, 1993, now abandoned.

1. Enclosed is a copy of the latest inventor signed application, including the oath or declaration as originally filed. The copy of the enclosed papers is as follows:

181 page(s) of specification
 6 page(s) of claims
 1 page(s) of abstract
 11 sheet(s) of drawing
 _____ page(s) of declaration and power of attorney.

I hereby verify that the attached papers are a true copy of the prior complete application serial no. 08/461,598 as originally filed on June 5, 1995.

2. A verified statement to establish small entity status under 37 CFR 1.9 and 1.27, a copy of which is enclosed, was filed in the prior application and such status is still proper and desired (37 CFR 1.28(a)).

3. The filing fee is calculated below:

	NUMBER OF CLAIMS FILED			NUMBER EXTRA
TOTAL	57	MINUS	20	= 37
INDEP.	4	MINUS	3	= 1
<input type="checkbox"/> MULTIPLE DEPENDENT CLAIMS				

<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2">SMALL ENTITY</th> </tr> <tr> <th>RATE</th> <th>FEES</th> </tr> </thead> <tbody> <tr> <td>x 9 =</td> <td>\$0.00</td> </tr> <tr> <td>x 39 =</td> <td>\$0.00</td> </tr> <tr> <td>+130 =</td> <td>\$0.00</td> </tr> <tr> <td>BASIC FEE</td> <td>\$0.00</td> </tr> <tr> <td>TOTAL</td> <td>\$0.00</td> </tr> </tbody> </table>	SMALL ENTITY		RATE	FEES	x 9 =	\$0.00	x 39 =	\$0.00	+130 =	\$0.00	BASIC FEE	\$0.00	TOTAL	\$0.00	<p><u>OR</u></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2">OTHER THAN A SMALL ENTITY</th> </tr> <tr> <th>RATE</th> <th>FEES</th> </tr> </thead> <tbody> <tr> <td>x 18 =</td> <td>\$666.00</td> </tr> <tr> <td>x 78 =</td> <td>\$78.00</td> </tr> <tr> <td>+ 260 =</td> <td>\$0.00</td> </tr> <tr> <td>BASIC FEE</td> <td>\$760.00</td> </tr> <tr> <td>TOTAL</td> <td>\$1504.00</td> </tr> </tbody> </table>	OTHER THAN A SMALL ENTITY		RATE	FEES	x 18 =	\$666.00	x 78 =	\$78.00	+ 260 =	\$0.00	BASIC FEE	\$760.00	TOTAL	\$1504.00
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BASIC FEE	\$760.00																												
TOTAL	\$1504.00																												

4. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 12-0080. A duplicate copy of this sheet is enclosed.
5. A check in the amount of \$1504.00 is enclosed for payment of the filing fee.
6. Cancel in this application original claims 2-42 of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
7. A preliminary amendment is enclosed. (Claims added by this amendment have been properly numbered consecutively beginning with the number next following the highest numbered original claims in the prior application.)
8. Amend the specification by inserting before the first line the sentences: "This application is a divisional application of serial no. 08/461,598 filed on June 5, 1995 and issued as U.S. Patent 5,876,951 March 2, 1999, which in turn is a continuation-in-part application of serial no. 08/322,137 filed on October 13, 1994, now pending, which is a continuation-in-part of serial no. 08/309,313, filed September 20, 1994, now abandoned, which is a continuation-in-part of serial no. 08/190,328, filed January 31, 1994, now abandoned, which is a continuation-in-part of Serial No. 08/041,431, filed March 31, 1993, now abandoned. The contents of all of the aforementioned application(s) are hereby incorporated by reference."
9. Please abandon said prior application as of the filing date accorded this application. A duplicate copy of this transmittal is enclosed for filing in the prior application file. (May be used if signed by person authorized by §1.138 and before payment of base issue fee.)
10. Transfer the drawings from the pending prior application to this application.
11. Priority of application serial no. _____ filed on _____ in _____ is claimed under 35 U.S.C. §119.
 - The certified copy has been filed in prior application serial no. _____ filed on _____.
 - The certified copy will follow.
12. The prior application is assigned of record to Cadus Pharmaceutical Corporation.
13. A _____ month extension of time has been submitted in the parent application Serial No. in order to establish copendency with the present application.
14. Also enclosed is an unexecuted Associate Power of Attorney and Change of Correspondence Address.
15. The power of attorney in the prior application is to Giulio A. DeConti, Jr. of Lahive & Cockfield, LLP.
 - a. The power appears in the original papers in the prior application.
 - b. Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.
 - c. A new power has been executed and is attached.

16. Address all future communications (May only be completed by applicant, or attorney or agent of record) to Giulio A. DeConti, Jr. at Customer Number: 000959 whose address is:

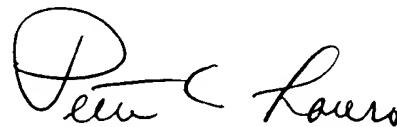
Lahive & Cockfield, LLP
28 State Street
Boston, Massachusetts 02109

17. Any requests for extensions of time necessary in a parent application for establishing copendency between this application and a parent application are hereby requested and the Commissioner is authorized to charge any fee associated with such an extension to Deposit Account No. 12-0080.

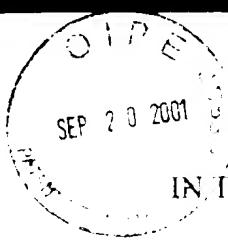
18. Pursuant to 37 CFR 1.821(e), the computer readable form of the sequence listing for this new application is to be identical with the computer readable form of application serial no. 08/461,598. Please use the computer readable form of application serial no. 08/461,598 in lieu of filing a duplicate computer readable form in this application. Pursuant to 37 CFR 1.821(f), the content of the paper copy of the sequence listing for this new application and the computer readable form of application serial no. 08/461,598 are the same.

February 26, 1999
Date

LAHIVE & COCKFIELD, LLP
28 State Street
Boston, Massachusetts 02109
Tel. (617) 227-7400



Peter C. Lauro, Esq.
Reg. No. 32,360
 inventor(s) filed under §1.34(a)
 assignee of complete interest
 attorney or agent of record



Receipt \$

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Dana M. Fowlkes, *et al.*

Serial No.: 09/258,600

Filed: February 26, 1999

For: *Yeast Cells Engineered to Produce Pheromone System Protein Surrogates, and Uses Therefor*

Attorney Docket No.: CPI-012CP4DV

Group Art Unit: Not Assigned

Examiner: Not Assigned

BOX MISSING PARTS

Commissioner for Patents

Washington, D.C. 20231

REQUEST FOR CORRECTION OF FILING RECEIPT

Dear Sir:

Please correct the Filing Receipt for the application identified above.

Insert Applicants' information as follows:

Dana M. Fowlkes, Chapel Hill, NC

Jim Broach, Princeton, NJ

John Manfredi, Ossining, NY

Christine Klein, Ossining, NY

Andrew J. Murphy, Montclair, NJ

Jeremy Paul, South Nyack, NY

Joshua Trueheart, South Nyack, NY

Applicants request that the Filing Receipt be corrected and reissued. *A copy of the Filing Receipt with the changes noted thereon is submitted herewith.*

Certificate of First Class Mailing (37 CFR 1.8(a))

I hereby certify that this correspondence is deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Missing Parts, Commissioner for Patents, Washington, D.C. 20231 on:

Date

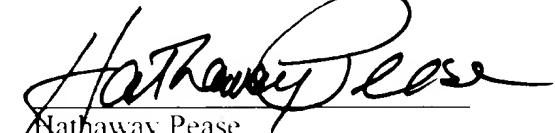
September 18, 2001

Hathaway Pease

Reg. No. 46,488

Respectfully submitted,

LAHIVE & COCKFIELD, LLP



Hathaway Pease
Registration No. 46,488
Agent for Applicants

LAHIVE & COCKFIELD, LLP

Commissioner of Patents & Trademarks

SEP 20 2001

029198

02/26/99

COMPUTER 029198
CHECK NO

YOUR INVOICE NO.	INVOICE DATE	AMOUNT	DISCOUNT	NET AMOUNT	CHECK TOTAL
CPI-012C4DV	02/26/99				1,504.00
					1,504.00

PLEASE DETACH BEFORE DEPOSITING

LAHIVE & COCKFIELD, LLP

28 STATE STREET
BOSTON, MA 02109

CITIZENS BANK
Citizens Bank of Massachusetts, Boston, MA

029198

5-7017
2110

029198

DATE	AMOUNT
02/26/99	\$****1,504.00

1,504 DOLLARS & 00 CENTS

TWO SIGNATURES REQUIRED FOR AMOUNT
IN EXCESS OF \$30,000.00
VOID AFTER 180 DAYS

Commissioner of Patents & Trademarks

PAY
TO THE
ORDER
OF

0029198 021107017501102014483M

SEP 20 2001

Office No. C PI-C12CP4DV

THE "RECEIVED" STAMP OF THE PATENT AND TRADEMARK OFFICE
IMPRINTED HEREON ACKNOWLEDGES THE FILING OF:

Description of Paper* and No.: U.S. Divisional Patent Application including 181 pgs. of spec., 6 pgs of claims, 1 pg. of Abstract, 11 sheets of drawings, Divisional-Continuation Application Transmittal Form Under Rule 1.53(b) (in duplicate), Associate Power of Attorney (parent), New Associate Power of Attorney (unexecuted), Preliminary Amendment and each of the above is \$1,525.00 filing fee and this return postcard

Name of Applicant(s): Dana M. Fowlkes *et al.*

Int'l. or Serial No.: To be Assigned (Divisional of 08/461,598)

Atty: GAD/PCL/PWD

Date: February 26, 1999

*with Certificate of Express Mailing No. EL 094 332 976 US

JC551 U.S.
09/258600 PTO
02/26/99

NO POSTAGE STAMP NECESSARY
POSTAGE HAS BEEN PREPAID BY

LAHIVE & COCKFIELD, LLP
28 STATE STREET
BOSTON, MA 02109

